

Forty-eighth Legislature
Second Regular Session

COMMITTEE ON HOMELAND SECURITY AND PROPERTY RIGHTS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2650

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 33-1260, Arizona Revised Statutes, is amended to
3 read:

4 33-1260. Resale of units; information required; applicability;
5 definition

6 A. For condominiums with fewer than fifty units, a unit owner shall
7 mail or deliver to a purchaser within ten days after receipt of a written
8 notice of a pending sale of the unit, and for condominiums with fifty or more
9 units, the association shall mail or deliver to a purchaser within ten days
10 after receipt of a written notice of a pending sale that contains the name
11 and address of the purchaser, all of the following:

12 1. A copy of the bylaws and the rules of the association.

13 2. A copy of the declaration.

14 3. A dated statement containing:

15 (a) The telephone number and address of a principal contact for the
16 association, which may be an association manager, an association management
17 company, an officer of the association or any other person designated by the
18 board of directors.

19 (b) The amount of the common expense assessment for the unit and any
20 unpaid common expense assessment, special assessment or other assessment, fee
21 or charge currently due and payable from the selling unit owner.

22 (c) A statement as to whether a portion of the unit is covered by
23 insurance maintained by the association.

24 (d) The total amount of money held by the association as reserves.

25 (e) If the statement is being furnished by the association, a
26 statement as to whether the records of the association reflect any
27 alterations or improvements to the unit that violate the declaration. The
28 association is not obligated to provide information regarding alterations or

1 improvements that occurred more than six years before the proposed sale.
2 Nothing in this subdivision relieves the seller of a unit from the obligation
3 to disclose alterations or improvements to the unit that violate the
4 declaration, nor precludes the association from taking action against the
5 purchaser of a unit for violations that are apparent at the time of purchase
6 and that are not reflected in the association's records.

7 (f) If the statement is being furnished by the unit owner, a statement
8 as to whether the unit owner has any knowledge of any alterations or
9 improvements to the unit that violate the declaration.

10 (g) A statement of case names and case numbers for pending litigation
11 with respect to the unit filed by the association against the unit owner or
12 filed by the unit owner against the association. The unit owner or the
13 association shall not be required to disclose information concerning the
14 pending litigation that would violate any applicable rule of attorney-client
15 privilege under Arizona law.

16 (h) A statement that provides "I hereby acknowledge that the
17 declaration, bylaws and rules of the association constitute a contract
18 between the association and me (the purchaser). By signing this statement, I
19 acknowledge that I have read and understand the association's contract with
20 me (the purchaser). I also understand that as a matter of Arizona law, if I
21 fail to pay my association assessments, the association may foreclose on my
22 property." The statement shall also include a signature line for the
23 purchaser and shall be returned to the association within fourteen calendar
24 days.

25 4. A copy of the current operating budget of the association.

26 5. A copy of the most recent annual financial report of the
27 association. If the report is more than ten pages, the association may
28 provide a summary of the report in lieu of the entire report.

29 6. A copy of the most recent reserve study of the association, if any.

30 7. A COPY OF THE MOST RECENT CLASSIFICATION STATEMENT REQUIRED
31 PURSUANT TO SECTION 33-2402.

1 B. A purchaser or seller who is damaged by the failure of the unit
2 owner or the association to disclose the information required by subsection A
3 of this section may pursue all remedies at law or in equity against the unit
4 owner or the association, whichever failed to comply with subsection A of
5 this section, including the recovery of reasonable attorney fees.

6 C. The association may charge the unit owner a reasonable fee to
7 compensate the association for the costs incurred in the preparation of a
8 statement furnished by the association pursuant to this section. The
9 association shall make available to any interested party the amount of any
10 fee established from time to time by the association.

11 D. A sale in which a public report is issued pursuant to sections
12 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
13 from this section.

14 E. This section does not apply to timeshare plans or associations that
15 are subject to chapter 20 of this title.

16 F. For the purposes of this section, unless the context otherwise
17 requires, "unit owner" means the seller of the condominium unit title and
18 excludes any real estate salesperson or real estate broker who is licensed
19 under title 32, chapter 20 and who is acting as a salesperson or broker and
20 also excludes a trustee of a deed of trust who is selling the property in a
21 trustee's sale pursuant to chapter 6.1 of this title.

22 Sec. 2. Section 33-1806, Arizona Revised Statutes, is amended to read:

23 33-1806. Resale of units; information required; definition

24 A. For planned communities with fewer than fifty units, a member shall
25 mail or deliver to a purchaser within ten days after receipt of a written
26 notice of a pending sale of the unit, and for planned communities with fifty
27 or more units, the association shall mail or deliver to a purchaser within
28 ten days after receipt of a written notice of a pending sale that contains
29 the name and address of the purchaser, all of the following:

- 30 1. A copy of the bylaws and the rules of the association.
31 2. A copy of the declaration.
32 3. A dated statement containing:

1 (a) The telephone number and address of a principal contact for the
2 association, which may be an association manager, an association management
3 company, an officer of the association or any other person designated by the
4 board of directors.

5 (b) The amount of the common regular assessment and the unpaid common
6 regular assessment, special assessment or other assessment, fee or charge
7 currently due and payable from the selling member.

8 (c) A statement as to whether a portion of the unit is covered by
9 insurance maintained by the association.

10 (d) The total amount of money held by the association as reserves.

11 (e) If the statement is being furnished by the association, a
12 statement as to whether the records of the association reflect any
13 alterations or improvements to the unit that violate the declaration. The
14 association is not obligated to provide information regarding alterations or
15 improvements that occurred more than six years before the proposed sale.
16 Nothing in this subdivision relieves the seller of a unit from the obligation
17 to disclose alterations or improvements to the unit that violate the
18 declaration, nor precludes the association from taking action against the
19 purchaser of a unit for violations that are apparent at the time of purchase
20 and that are not reflected in the association's records.

21 (f) If the statement is being furnished by the member, a statement as
22 to whether the member has any knowledge of any alterations or improvements to
23 the unit that violate the declaration.

24 (g) A statement of case names and case numbers for pending litigation
25 with respect to the unit filed by the association against the member or filed
26 by the member against the association. The member shall not be required to
27 disclose information concerning such pending litigation which would violate
28 any applicable rule of attorney-client privilege under Arizona law.

29 (h) A statement that provides "I hereby acknowledge that the
30 declaration, bylaws and rules of the association constitute a contract
31 between the association and me (the purchaser). By signing this statement, I
32 acknowledge that I have read and understand the association's contract with

1 me (the purchaser). I also understand that as a matter of Arizona law, if I
2 fail to pay my association assessments, the association may foreclose on my
3 property." The statement shall also include a signature line for the
4 purchaser and shall be returned to the association within fourteen calendar
5 days.

6 4. A copy of the current operating budget of the association.

7 5. A copy of the most recent annual financial report of the
8 association. If the report is more than ten pages, the association may
9 provide a summary of the report in lieu of the entire report.

10 6. A copy of the most recent reserve study of the association, if any.

11 7. A COPY OF THE MOST RECENT CLASSIFICATION STATEMENT REQUIRED
12 PURSUANT TO SECTION 33-2402.

13 B. A purchaser or seller who is damaged by the failure of the member
14 or the association to disclose the information required by subsection A of
15 this section may pursue all remedies at law or in equity against the member
16 or the association, whichever failed to comply with subsection A of this
17 section, including the recovery of reasonable attorney fees.

18 C. The association may charge the member a reasonable fee to
19 compensate the association for the costs incurred in the preparation of a
20 statement furnished by the association pursuant to this section. The
21 association shall make available to any interested party the amount of any
22 fee established from time to time by the association.

23 D. A sale in which a public report is issued pursuant to sections
24 32-2183 and 32-2197.02 or a sale pursuant to section 32-2181.02 is exempt
25 from this section.

26 E. For THE purposes of this section, unless the context otherwise
27 requires, "member" means the seller of the unit title and excludes any real
28 estate salesperson or real estate broker who is licensed under title 32,
29 chapter 20 and who is acting as a salesperson or broker and also excludes a
30 trustee of a deed of trust who is selling the property in a trustee's sale
31 pursuant to chapter 6.1 of this title.

Sec. 3. Title 33, Arizona Revised Statutes, is amended by adding chapter 22, to read:

CHAPTER 22

CLASSIFICATION OF HOMEOWNERS' ASSOCIATIONS

ARTICLE 1. GENERAL PROVISIONS

33-2401. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION FOR A CONDOMINIUM AS DEFINED IN SECTION 33-1202 OR AN ASSOCIATION FOR A PLANNED COMMUNITY AS DEFINED IN SECTION 33-1802.

2. "KEY SERVICES" MEANS UTILITY OR COMMUNICATION SERVICES.

3. "MAJOR AMENITIES" INCLUDES A CLUBHOUSE, GOLF COURSE, SWIMMING POOL, LAKE OR STREAM OR OTHER FEATURES WITH SIMILAR OPERATIONAL AND MAINTENANCE REQUIREMENTS.

4. "MEMBERSHIP APPROVAL" MEANS THE AFFIRMATIVE VOTE OF AT LEAST SIXTY-SEVEN PER CENT OF THE VOTING MEMBERS OF A HOMEOWNERS' ASSOCIATION OR AN AMOUNT SPECIFIED IN THE DECLARATION THAT IS NOT LESS THAN A SIMPLE MAJORITY.

5. "RULES" MEANS THE PROVISIONS, IF ANY, ADOPTED PURSUANT TO THE DECLARATION OR BYLAWS GOVERNING MAINTENANCE AND USE OF THE LOTS, PARCELS, UNITS OR REAL ESTATE OWNED AND OPERATED BY THE ASSOCIATION.

33-2402. Classification; notification; modification

A. A HOMEOWNERS' ASSOCIATION IS CLASSIFIED AS FOLLOWS:

1. "CLASS A" FOR AN ASSOCIATION WITH AUTHORITY OVER KEY SERVICES PROVIDED TO THE COMMUNITY AND ONE OR MORE OF THE SERVICES OR FACTORS PRESCRIBED FOR CLASSES B, C AND D.

2. "CLASS B" FOR AN ASSOCIATION WITH AUTHORITY OVER MAJOR AMENITIES AND PRIVATELY OWNED PROPERTY, WHICH MAY INCLUDE AUTHORITY OVER STREETS. CLASS B MAY ALSO INCLUDE ONE OR MORE OF THE SERVICES OR FACTORS PRESCRIBED FOR CLASSES C AND D.

3. "CLASS C" FOR AN ASSOCIATION WITH AUTHORITY OVER THE MAINTENANCE AND USE OF A MEMBER'S PROPERTY AND ONE OR MORE OF THE SERVICES OR FACTORS PRESCRIBED FOR CLASS D.

1 4. "CLASS D" FOR AN ASSOCIATION WITH AUTHORITY OVER COMMON AREAS.
2 B. A HOMEOWNERS' ASSOCIATION SHALL CREATE A CLASSIFICATION STATEMENT
3 THAT DOES NOT EXCEED TWO PAGES AND THAT SHALL INDICATE THE CLASS DESIGNATION
4 THAT APPLIES TO THE HOMEOWNERS' ASSOCIATION. THE STATEMENT SHALL PROVIDE A
5 DESCRIPTION OF THE AMENITIES THAT DETERMINE THE HOMEOWNERS' ASSOCIATION
6 CLASSIFICATION.

7 C. ANY RULE OR AMENDMENT THAT WOULD CHANGE THE CLASSIFICATION OF THE
8 HOMEOWNERS' ASSOCIATION THAT IS MADE WITHOUT MEMBERSHIP APPROVAL IS VOID AND
9 UNENFORCEABLE."

10 Amend title to conform

and, as so amended, it do pass

WARDE V. NICHOLS
Chairman

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